

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION

CLERK'S OFFICE U.S. DIST. COURT  
AT HARRISONBURG, VA

FILED  
MAR 31 2008  
per Roanoke

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ERNEST FREDERICK HODGES,  
Petitioner,

v.

UNITED STATES OF AMERICA,  
Respondent.

Civil Action No. 7:08cv00240

MEMORANDUM OPINION

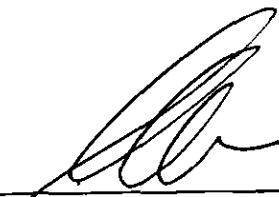
By: Samuel G. Wilson  
United States District Judge

Petitioner, Ernest Frederick Hodges, a federal inmate proceeding pro se, filed this petition for writ of habeas corpus, pursuant to 28 U.S.C. § 2241. By Order entered March 20, 2008, the court notified Hodges of the court's intention to construe and address his submission as a motion pursuant to § 2255, unless he expressly objected to the court's intended construction within ten (10) days. See Castro v. United States, 540 U.S. 375 (2003) (requiring court to give petitioner opportunity to elect whether criminal motion be addressed as § 2255 motion). Hodges filed an objection to the court's construction of the submitted petition as a § 2255 and, based on this response, the court dismissed his § 2255 action without prejudice. See Criminal Case No. 7:05cr00040. Accordingly, the court will consider his claims under § 2241.

The proper venue for a § 2241 petition is the district in which the petitioner is incarcerated. In re Jones, 226 F.3d 328, 332 (4th Cir. 2000). Hodges is currently housed at a Federal Correctional Institution in Cumberland, Maryland. Because he is not incarcerated in this district, therefore, this court does not have jurisdiction to consider his claims under § 2241. Accordingly, the court will dismiss his petition for lack of jurisdiction.

The Clerk is directed to send a copy of this Memorandum Opinion and the accompanying Order to petitioner.

ENTER: This 31<sup>st</sup> day of March, 2008.

  
United States District Judge